

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:) Chapter 11
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
 Debtor.) Hon. Basil H. Lorch III

**TRUSTEE'S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH JOHN TED NUCKOLS**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee (the “Trustee”) for the bankruptcy estate of Eastern Livestock Co., LLC (the “Debtor”), by counsel, respectfully moves the Court to approve a compromise and settlement of claims between the Trustee and John Ted Nuckols (“Mr. Nuckols”). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case on December 6, 2010 (the “Petition Date”). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.

3. The Trustee filed Adversary Proceeding No. 12-59060 (the “Adversary”) on August 3, 2012. The complaint in the Adversary seeks to recover \$355,605.14, plus interest, from Mr. Nuckols for his alleged breach of contract. Mr. Nuckols answered the complaint and provided discovery. He contends that his liability for cattle actually requested and received from

Debtor less amounts owing for care and feeding of cattle at the request of the Debtor or its custodian does not exceed \$60,000.

The Settlement

4. The Trustee negotiated a settlement of the Adversary on the terms set forth in the Settlement Agreement attached hereto as Exhibit A (the “Settlement Agreement”). As more particularly described in the Settlement Agreement, Mr. Nuckols has agreed to pay the Trustee \$25,000.00 to settle the Adversary on an installment basis in accordance with Mr. Nuckols’s current ability to pay and without prejudice to his right to pay the remaining balance of the settlement amount at any time.

Basis for Relief

5. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

6. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M. Holloway Found., 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

7. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate. Mr. Nuckols disputes all of the Trustee’s claims. Specifically, Mr. Nuckols asserts an affirmative defense of setoff to the Trustee’s breach of contract claim and various defenses to the Trustee’s avoidance claims, including defenses under 11 U.S.C. §§ 546(e), 547(c)(1), 547(c)(2) and

547(c)(4). Continued litigation with Mr. Nuckols would require significant additional expense with no guarantee of any recovery to the estate. The Settlement Agreement provides for a cash recovery of \$25,000.00.

8. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement and grant the Trustee all other just and proper relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2016, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on September 28, 2016, a copy of the foregoing pleading was served via electronic mail transmission on the following:

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